

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
Plaintiff, ) 8:11CR161  
vs. )  
DAVID MICHAEL NABITY, )  
Defendant. ) ORDER

This matter is before the court on the motion for an extension of time by defendant David Michael Nabity (Nabity) (Filing No. 23). Nabity seeks an extension of the January 9, 2012, deadline in which to file pretrial motions and to continue the suppression hearing scheduled for January 19, 2012. Nabity's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

**IT IS ORDERED:**

1. Defendant Nabity's motion for an extension of time (Filing No. 23) is granted. Nabity is given until **on or before January 23, 2012**, in which to file pretrial motions pursuant to the progression order. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **January 10, 2012, and January 23, 2012**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

2. Defendant Nabity's motion to continue the suppression hearing (Filing No. 23) is granted. The evidentiary hearing on Nabity's motion to suppress (Filing No. 21) is continued to **10:00 a.m. on February 21, 2012**, in Courtroom No. 7, Second Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska.

DATED this 10th day of January, 2012.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge